



County of Los Angeles CHIEF EXECUTIVE OFFICE

713 KENNETH HAHN HALL OF ADMINISTRATION
LOS ANGELES, CALIFORNIA 90012
(213) 974-1101
<http://ceo.lacounty.gov>

WILLIAM T FUJIOKA
Chief Executive Officer

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June 2, 2008

To: Supervisor Yvonne B. Burke, Chair
Supervisor Gloria Molina
Supervisor Zev Yaroslavsky
Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

MOTION TO OPPOSE AB 212 (FUENTES) RELATED TO GENERAL PLANS (ITEM NO. 74-A, AGENDA OF JUNE 4, 2008)

Item No. 74-A on the June 4, 2008 Agenda is a motion by Supervisor Antonovich to send a five-signature letter to the Governor and the Los Angeles County legislative delegation opposing AB 212 (Fuentes).

AB 212, as amended on May 6, 2008, would require applications for permits that include an application to amend a zoning ordinance to conform to the city's general plan, based on the general plan as of the date of the application. AB 212 would currently only apply to the City of Los Angeles and only in circumstances in which the general plan designates the property for residential use and that designation has applied to the property for at least 15 years. This measure has an urgency clause and would become effective immediately upon the signature of the Governor.

The legislation relates to plans by a developer to build houses on a former golf course located in the City of Los Angeles. The community plan for the area provides for very low, low, and medium density residential use. An effort was undertaken in 2007 by the local City Councilmember proposing to amend the plan to delete certain densities and designate the property for open space or minimum residential uses. The developer subsequently applied for a zoning ordinance amendment that would be consistent with the community plan's designations.

Existing law requires county and city zoning ordinances to be consistent with the general plan. For a zoning ordinance to be considered consistent with a general plan officially adopted by a city or county, the various land uses authorized by the ordinance are required to be compatible with the objectives, policies, general land uses, and programs specified in the general plan. Existing law also applies these provisions to specified charter cities.

According to the Senate Local Government Committee analysis, AB 283 (Thomas) was passed in 1978 requiring the City of Los Angeles to make its zoning ordinance consistent with its general plan. The City was given a deadline of January 1, 1981, which was subsequently extended through legislation to January 1, 1982. The City filed a lawsuit against the State and in 1982 the District Court of Appeals upheld the zoning consistency statute. To date, the City has not made its zoning ordinance consistent with all of their community plans that collectively comprise the general plan's land use element.

While AB 212 would currently only apply to the City of Los Angeles local land use decision-making authority, the Department of Regional Planning (DRP) indicates that AB 212 would establish a precedent that could subsequently be extended to other jurisdictions. In addition, the Department emphasizes that local land use planning is best carried out by the local agency. **However, given the exclusive application of this legislation to the City of Los Angeles, opposition to AB 212 is a matter of Board policy determination.** Existing policy does exist to oppose legislation that infringes upon boards of supervisors' local land use decision-making authority.

AB 212 is supported by the MWH Development Corporation, California Building Industry Association, California Home Builders, Catalina Pacific Utilities, and Spiegel Development Inc. The bill is opposed by the City of Los Angeles, American Planning Association – California Chapter, California State Association of Counties, League of California Cities, and the Regional Council of Rural Counties. This measure is set for hearing on Wednesday, June 4, 2008 in the Senate Local Government Committee.

WTF:GK
MAL:DD:mp

c: Executive Officer, Board of Supervisors
County Counsel
Regional Planning Department